

Agilent Ref: 10004415-1
United States Application Serial No. 09/740,660

REMARKS

In view of the above amendments and the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1-5, 8, 10, 11, 13-21 and 23-49, the only claims pending and currently under examination in this application.

The specification has been amended to correct an obvious typographical error in the application as filed. The above claim amendments simply clarify the claim language. For example, Claim 1 has been amended to simplify the claim language. As these amendments introduce no new matter to the application and place the claims in better form for allowance, their entry by the Examiner is respectfully requested.

Claims 1-5, 8, 10, 11, 14-21, 23-27 and 32-49 have been rejected under 35 U.S.C. § 112, first paragraph for reasons a, b and c. It is believed that the above claim amendments address each of these issues and that this rejection may now be withdrawn.

Claims 1-5, 8, 10, 11, 14-21, 23-27 and 32-49 have been rejected under 35 U.S.C. § 112, second paragraph for issues a and b. It is believed that the above claim amendments address each of these issues and that this rejection may now be withdrawn.

Next, Claims 1, 4, 5, 8, 21, 32-35 and 47 were rejected 35 U.S.C. § 102(b) over Hainfeld.

As summarized by the Examiner, the structure of Claim 1 requires three specific components, i.e., (a) a matrix, (b) a surface coating and (c) a protection layer **enapsulating** the surface coating.

In rejecting the claims over Hainfeld, the Examiner asserts that the combined bifunctional fluorescent and metal particle probes anticipate these claims because

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the metal/phenanthroline/fluorescent molecule complex disclosed at Col. 8, line 4 ff, includes structures corresponding to a matrix and surface coating.

However, nowhere does Hainfeld teach, or even suggest, a protection layer that encapsulates a surface coating, as required by the pending claims of the instant application. The polymer coating described at Col. 7, lines 44-47 of Hainfeld to which the Examiner points for this teaching actually corresponds to the surface coating of the claimed structures of the present application, as it is described as coating the metal core to provide functionality for bonding fluorescent or targeting molecules to the structure, and not as encapsulating a surface coating for a matrix, as claimed above.

As such, nowhere does Hainfeld teach (or even suggest) a protection layer as present in the claimed structures of the present application. Therefore, the rejection of Claims 1, 4, 5, 8, 21, 32-35 and 47 under 35 U.S.C. § 102(b) over Hainfeld may be withdrawn.

Finally, Claims 11 and 14 were rejected 35 U.S.C. § 103(a) over Hainfeld. As explained above, Hainfeld is fundamentally deficient in failing to teach or suggest all of the elements of the claimed structures, e.g., a protection layer that encapsulates a surface coating on a matrix. Accordingly, Hainfeld does not make Claims 11 and 14 obvious and this rejection may be withdrawn.

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CONCLUSION

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: 8.29.03

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